

**STATE OF MICHIGAN**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

**In the matter of**

**XXXXXX**

**Petitioner**

**v**

**File No. 122943-001**

**Blue Care Network of Michigan**  
**Respondent**

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**Issued and entered**  
**this 10<sup>th</sup> day of January 2012**  
**by R. Kevin Clinton**  
**Commissioner**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On August 19, 2011, XXXXX (Petitioner) filed a request with the Commissioner of Financial and Insurance Regulation for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* After a preliminary review of the material submitted, the Commissioner accepted the request for external review on August 26, 2011.

The Commissioner immediately notified Blue Care Network of Michigan (BCN) of the request and asked for the information it used to make its adverse determination. Information was received from BCN on August 24 and August 30, 2011.

The Petitioner's health care benefits are defined in the *BCN 10 Certificate of Coverage* (the certificate) and its *BCN Healthy Living Rider* (the rider). The issue in this external review can be decided by an analysis of the terms of the rider. The Commissioner reviews contractual issues under MCL 500.1911(7). This matter does not require a medical opinion from an independent review organization.

**II. FACTUAL BACKGROUND**

Under the rider, BCN offers its *Healthy Living* wellness program "designed to promote or maintain good health and/or prevent disease or the progression of disease for Members in the Program." BCN members who adopt or maintain healthier behaviors receive "enhanced" benefits (lower copayments, coinsurance, and deductibles). Members who do not maintain or

wish to adopt healthier behaviors receive “standard” benefits (higher copayments, coinsurance, and deductibles).

The Petitioner was first enrolled in the *Healthy Living* program in 2007. In order to receive enhanced benefits in 2011, he had to re-enroll by submitting all required documents to BCN by March 31, 2011.

When the Petitioner failed to submit the Health Risk Assessment (HRA) form by that deadline, he was placed back at the standard benefits level effective April 1, 2011. He subsequently submitted the HRA form under BCN’s “second chance” option and was restored to the enhanced benefits level on May 19, 2011. During the seven weeks he was receiving standard benefits he was subject to a higher deductible for health care services.

When the Petitioner asked that his claims for the period April 1 through May 18, 2011, be processed at the enhanced benefits level, BCN denied the request. The Petitioner appealed the denial through BCN’s internal grievance process. BCN maintained its determination and issued its final adverse determination letter dated July 12, 2011.

### **III. ISSUE**

Did BCN properly deny the Petitioner continued participation at the enhanced benefits level from April 1 through May 18, 2011, under the terms of the rider?

### **IV. ANALYSIS**

#### **Petitioner’s Argument**

The Petitioner states he believed he fulfilled his enrollment requirements for the *Healthy Living* program’s enhanced benefits level when he submitted a form to BCN on March 25, 2011, that he mistakenly thought was the HRA form. He states he quickly submitted the HRA form as soon as he was told it was missing.

The Petitioner wants to be restored to the enhanced benefits level effective April 1, 2011. He indicates he would save \$1,800.00 in out-of-pocket deductible expenses for the medical services that he received during the period of April 1 through May 18, 2011.

#### **Respondent’s Argument**

In its final adverse determination of July 12, 2011, BCN explained why it declined to place the Petitioner back into the enhanced benefits from April 1, 2011 through May 18, 2011:

... Based upon the information reviewed, your request has been denied because you completed your online Health Assessment (HA) after the due date of March 31, 2011. Your contract will remain in the standard level benefit from April 1,

2011 – May 18, 2011, you will be responsible for any charges applied to the standard level benefits during this time period. Your contract was returned to the enhanced level benefit on May 19, 2011.

### Commissioner's Review

Health maintenance organizations are permitted to offer wellness programs like BCN's *Healthy Living* that provide for reduced copayments, coinsurance, or deductibles if certain conditions are met.<sup>1</sup> As a condition of remaining at the enhanced benefits level, a BCN member must meet requirements specified in the rider. The rider states:

Healthy Living Eligible Members who have qualified to earn Enhanced Benefits in their preceding year may continue to earn Enhanced Benefits following the steps outlined in "How to Earn the Healthy Living Enhanced Benefits in the First Year of Enrollment," above. These steps will begin on the date of renewal of each year of enrollment.

The rider explains the steps that must be taken to earn Healthy Living enhanced benefits in the first year of enrollment:

Upon enrollment each Healthy Living Eligible Member will receive Enhanced Benefits for a 90-day period. To continue receiving the Enhanced Benefits each Healthy Living Eligible Member must take the following steps:

1. Within 90 days of enrollment each Healthy Living Eligible Member must complete a Health Risk Assessment (HRA) and a Healthy Living Enrollment Form which will assess the Member's medical condition and/or lifestyle behavior in relation to the following areas:
  - Blood pressure
  - Smoking
  - Cholesterol
  - Blood sugar
  - Weight
  - Alcohol use
2. In order to earn Enhanced Benefits, Healthy Living Eligible Members must achieve a score of 80 points or more on the Healthy Living Enrollment Form. . . . The results must be submitted to BCN within the 90-day time period.

The Petitioner was enrolled at the enhanced benefits level from January 1 through March 31, 2011, but failed to submit his Health Risk Assessment by the deadline of March 31, 2011. As a result, he was removed from the enhanced benefits level on April 1, 2011.

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<sup>1</sup> See MCL 500.3426.

BCN states that it sent a reminder to the Petitioner on February 10, 2011. The Petitioner indicates he made an attempt to submit the HRA form before the deadline but submitted the wrong form in error. He acknowledges that he did not submit the HRA form on time.

Although the Petitioner quickly corrected the error, he did not meet the requirements of the rider. There is nothing in the certificate, the rider, or state law that would compel BCN to restore him to the enhanced benefits level under the facts and circumstances of this case.

The Commissioner finds the Petitioner did not meet the requirements of the rider to continue his participation in the enhanced benefits level from April 1 through May 18, 2011. Therefore, BCN had cause to place Petitioner into the standard benefits level from April 1 through May 18, 2011.

#### **V. ORDER**

The Commissioner upholds Blue Care Network's final adverse determination of July 12, 2011. BCN is not required to restore the Petitioner to the enhanced benefits level for the period April 1 through May 18, 2011.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

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R. Kevin Clinton  
Commissioner